

STATUTORY INSTRUMENTS

2011 No. 3066

The Railways (Interoperability) Regulations 2011

PART 4

[^{F1}Approved and Designated Bodies]

Textual Amendments

- F1** Pt. 4 heading substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(35)**; 2020 c. 1, Sch. 5 para. 1(1)

Approved bodies

[^{F2}30.—(1) An approved body is a body which—

- (a) has been approved by the Secretary of State pursuant to the procedure set out in regulation 31; or
 - (b) immediately before IP completion day was a notified body which has not received notice from the Secretary of State terminating its appointment as a notified body.
- (2) In this Regulation, “a notified body” means a body which has been—
- (a) appointed by the Strategic Rail Authority as a notified body and notified to the European Commission and EU Member States pursuant to regulation 5 of the Railways (Interoperability) (High-Speed) Regulations 2002;
 - (b) appointed by the Secretary of State as a notified body and notified to the European Commission and EU Member States pursuant to regulation 25 of the Railways (Interoperability) Regulations 2006 or regulation 31 of these Regulations as they had effect immediately before IP completion day.]

Textual Amendments

- F2** Reg. 30 substituted (31.12.2020) by [The Railways \(Interoperability\) \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/345\)](#), regs. 1(2), **2(36)** (as amended by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), **4(7)**); 2020 c. 1, Sch. 5 para. 1(1)

Appointment of [^{F3}approved bodies] and designated bodies

31.—(1) The Secretary of State may from time to time appoint by notice in writing (an “appointment”) such persons as the Secretary of State thinks fit to be [^{F4}an approved body] or a designated body for the purposes of these Regulations.

(2) The Secretary of State must not appoint any person as [^{F4}an approved body] or a designated body in accordance with paragraph (1) unless—

- (a) the person has applied to be so appointed; and
- (b) the Secretary of State is satisfied that the person is capable of meeting the criteria specified in [^{F5}Schedule 8].

(3) For the purposes of this regulation, [^{F6}Schedule 8] applies to a designated body as it applies to [^{F4}an approved body].

(4) An appointment—

- (a) relates to such descriptions of structural subsystems and interoperability constituents of the rail system as the Secretary of State may specify; and
- (b) is subject to such conditions as the Secretary of State may specify, including such conditions as are to apply upon or following termination of the appointment.

(5) Subject to paragraphs (6)(b) and (c) and (7), an appointment is for such period as may be specified in the appointment.

(6) An appointment terminates—

- (a) upon the expiry of any period specified in the appointment pursuant to paragraph (5);
- (b) upon the expiry of 90 days notice in writing given by the [^{F7}approved] body or the designated body to the Secretary of State; or
- (c) on any date specified for the termination of the appointment in accordance with paragraph (7),

whichever is the earliest.

(7) If at any time it appears to the Secretary of State in relation to [^{F4}an approved body] appointed by the Secretary of State or the Strategic Rail Authority or in relation to a designated body that—

- (a) any of the conditions of the appointment of that body are not being complied with; or
- (b) the body is not meeting the criteria specified in [^{F8}Schedule 8],

the Secretary of State may, by notice in writing to that body, specify a date on which the appointment of that person as a body is to terminate.

(8) Before terminating the appointment of a person as [^{F4}an approved body] or designated body pursuant to the grounds specified in paragraph (7) the Secretary of State must—

- (a) notify the [^{F9}approved] body or designated body in writing that—
 - (i) the Secretary of State is considering terminating the appointment and the reasons why; and
 - (ii) the [^{F9}approved] or designated body may make representations in writing within 14 days beginning with the day on which such notice is given; and
- (b) consider any representations made within that period by the [^{F10}approved] body or the designated body before making a decision.

(9) When the appointment of [^{F4}an approved body] is terminated in accordance with paragraph (6) the Secretary of State may—

- (a) give such directions as the Secretary of State considers appropriate, to that [^{F11}approved] body or to another [^{F11}approved] body, for the purpose of making such arrangements as may be necessary or expedient for the determination of any matters which would, apart from the termination, have fallen to be determined by the [^{F11}approved] body whose appointment has terminated; and

- (b) without prejudice to the generality of sub-paragraph (a), authorise another [^{F12}approved] body, to take over the functions of the [^{F12}approved] body whose appointment has terminated, in respect of such matters as the Secretary of State may specify.
- (10) When the appointment of a designated body is terminated in accordance with paragraph (6) the Secretary of State may—
- (a) give such directions as the Secretary of State considers appropriate, to that designated body or to another designated body, for the purpose of making such arrangements as may be necessary or expedient for the determination of any matters which would, apart from the termination, have fallen to be determined by the designated body whose appointment has terminated; and
- (b) without prejudice to the generality of sub-paragraph (a), authorise another designated body, to take over the functions of the designated body whose appointment has terminated, in respect of such matters as the Secretary of State may specify.

Textual Amendments

- F3** Words in reg. 31 heading substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in reg. 31 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in reg. 31(2)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in reg. 31(3) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F7** Word in reg. 31(6)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in reg. 31(7)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** Word in reg. 31(8)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Word in reg. 31(8)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** Word in reg. 31(9)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Word in reg. 31(9)(b) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(37)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F13}Approved bodies] and designated bodies: certificates etc.

32.—(1) Where [^{F14}an approved body] or designated body proposes to decline to draw up a [^{F15}UK] certificate of verification or an ISV in relation to a project subsystem, or proposes to decline to confirm that [^{F16}a UK declaration] of conformity or suitability for use can be drawn up in respect of an interoperability constituent, it must—

- (a) give notice in writing to the relevant person of the reasons why it proposes to do so;
- (b) give the relevant person the opportunity to make representations in writing within a period of 28 days beginning with the day on which such notice is given; and
- (c) consider any representations made within that period by the relevant person before making its decision.

(2) [^{F14}An approved body] or designated body must not draw up a [^{F17}UK] certificate of verification unless it is drawn up in accordance with the applicable part of [^{F18}Schedule 4].

(3) [^{F14}An approved body] must not confirm that [^{F19}a UK declaration] of conformity or suitability for use can be drawn up in respect of an interoperability constituent unless satisfied that that constituent conforms to such of the [^{F20}NTSNs] as are required by regulation 25.

[^{F21}(3A) A designated body must not confirm that a UK declaration of conformity or suitability for use can be drawn up in respect of an interoperability constituent unless satisfied that the constituent conforms to such of the UK specific cases as are required by regulation 25.]

^{F22}(4)

(5) The “relevant person” means the person who engaged the [^{F23}approved body] or designated body for the relevant matter.

Textual Amendments

- F13** Words in reg. 32 heading substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in reg. 32 substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F15** Word in reg. 32(1) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in reg. 32(1) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F17** Word in reg. 32(2) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(e)**; 2020 c. 1, Sch. 5 para. 1(1)
- F18** Words in reg. 32(2) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(e)**; 2020 c. 1, Sch. 5 para. 1(1)
- F19** Words in reg. 32(3) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(d)**; 2020 c. 1, Sch. 5 para. 1(1)
- F20** Word in reg. 32(3) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(f)**; 2020 c. 1, Sch. 5 para. 1(1)
- F21** Reg. 32(3A) inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(g)**; 2020 c. 1, Sch. 5 para. 1(1)
- F22** Reg. 32(4) omitted (31.12.2020) by virtue of S.I. 2019/345, reg. 2(39)(ga) (as inserted by The Railways (Interoperability) (Miscellaneous Amendments and Revocations) (EU Exit) Regulations 2020 (S.I. 2020/318), regs. 1(2)(b), **5(8)**)
- F23** Words in reg. 32(5) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(39)(h)**; 2020 c. 1, Sch. 5 para. 1(1)

Fees of [^{F24}approved bodies] and designated bodies

33.—(1) Subject to paragraph (2), [^{F25}an approved body] or a designated body may charge such a fee in connection with, or incidental to, carrying out its functions in relation to these Regulations as it may determine.

(2) The fee charged pursuant to paragraph (1) must not exceed the sum of the following—

- (a) the costs incurred or to be incurred by the [^{F26}approved body] or the designated body in carrying out relevant work; and
- (b) an amount of profit which is reasonable in the circumstances having regard to—

- (i) the character and extent of the work carried out by the [^{F27}approved body] or the designated body on behalf of the person commissioning the work; and
- (ii) the commercial rate normally charged on account of profit for that work or similar work.

(3) Subject to paragraph (4) the power in paragraph (1) includes the power to require the payment of a fee, or a reasonable estimate of the fee, in respect of the work commissioned in advance of carrying out that work.

(4) Unless the parties otherwise agree, an amount charged in accordance with paragraph (3) must not exceed a reasonable estimate of the fee for the work for the three months subsequent to the request for the advance payment.

Textual Amendments

- F24** Words in reg. 33 heading substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(40)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F25** Words in reg. 33(1) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(40)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F26** Words in reg. 33(2)(a) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(40)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F27** Words in reg. 33(2)(b)(i) substituted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(40)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Fees of the Secretary of State

34. The Secretary of State may charge such reasonable fee in connection with, or incidental to, carrying out the Secretary of State's functions under regulation 31 as the Secretary of State may determine.

[^{F28}Register of approved bodies

34A.—(1) The Secretary of State must—

- (a) assign an approved body identification number to each approved body; and
- (b) compile and maintain a register of—
 - (i) approved bodies;
 - (ii) their approved body identification number;
 - (iii) the activities for which they have been approved; and
 - (iv) any restrictions on those activities.

(2) The register referred to in paragraph (1) must be made publicly available.

Textual Amendments

- F28** Regs. 34A, 34B inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), **2(41)**; 2020 c. 1, Sch. 5 para. 1(1)

UK national accreditation body

34B.—(1) The Secretary of State may authorise the UK national accreditation body to carry out the following activities on behalf of the Secretary of State—

- (a) assessing whether a body meets the approved body or designated body requirements;
 - (b) exercising functions in accordance with regulation 31;
 - (c) compiling and maintaining the register of approved bodies in accordance with regulation 34A.
- (2) In this regulation—
- “RAMS” means Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93;
- “UK national accreditation body” means the body appointed by the Secretary of State in accordance with Article 4 of RAMS.]

Textual Amendments

- F28** Regs. 34A, 34B inserted (31.12.2020) by The Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/345), regs. 1(2), 2(41); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the The Railways (Interoperability) Regulations 2011, PART 4.